

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JANA L. TUTON
Supervising Deputy Attorney General
3 MARA FAUST
Deputy Attorney General
4 1515 K Street, Suite 511
P.O. Box 944255
5 Sacramento, California 94244-2550
Telephone: (916) 324-5358

6 Attorneys for Complainant
7

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA
11

12 In the Matter of the)
Accusation Against:)

No. D-5505

13 MICHAEL U. BURVANT, M.D.)
14 3532 Orinda Circle)
Cameron Park, CA 95682)

STIPULATION
AND WAIVER

15 Physician and Surgeon)
16 Certificate No. C-27859)
17)

18 Respondent.)
19)

20 IT IS HEREBY STIPULATED by and between Michael U.
21 Burvant, M.D., (hereinafter "respondent") and his attorney Loren
22 E. McMaster, and Dixon Arnett, as Executive Officer of the
23 Medical Board of California, Department of Consumer Affairs, by
24 and through his attorney, Mara Faust, Deputy Attorney General,
25 that the following matters are true:

26 1. Accusation No. D-5505 is presently pending against
27 Michael U. Burvant, M.D., physician's and surgeon's certificate

1 number C-27859, before the Medical Board of California
2 (hereinafter referred to as the "Board") and said Accusation
3 having been filed on or about October 27, 1993. A copy of said
4 Accusation is attached hereto as Exhibit A and incorporated
5 herein by reference.

6 2. The complainant in said Accusation, Dixon Arnett,
7 is the Executive Officer of the Board and brought said Accusation
8 in his official capacity only.

9 3. Respondent is represented by Loren E. McMaster,
10 attorney at law.

11 4. Respondent is fully aware of and has had explained
12 to him by his attorney, his right to a decision based on a
13 hearing on the charges and allegations in Accusation No.
14 D-5505, his right to reconsideration, to appeal and to any and
15 all other rights which may be accorded him pursuant to the
16 California Administrative Procedures Act, and the laws of the
17 State of California.

18 5. Respondent hereby freely and voluntarily waives his
19 right to a hearing on the charges and allegations contained in
20 the above-mentioned Accusation in order to enter into this
21 Stipulation and that he further agrees to waive his right to
22 reconsideration, judicial review, and any and all rights which
23 may be accorded him by the Administrative Procedure Act and the
24 laws of the State of California, except his right to petition for
25 termination or modification of probation pursuant to Government
26 Code section 11522.

27 6. All admissions of fact and conclusions of law

1 contained in this Stipulation are made exclusively for this
2 proceeding and any future proceedings between the Board and the
3 respondent and shall not be deemed to be admissions for any
4 purpose in any other administrative, civil or criminal action,
5 forum or proceeding.

6 7. For the purpose of the settlement of the action
7 pending against respondent is case No. D-5505 and to avoid a
8 lengthy administrative hearing, respondent admits that there is a
9 factual and legal basis for the imposition of discipline pursuant
10 to the allegations of Accusation Number D-5505.

11 8. Respondent admits that on September 5, 1989 he
12 suffered a conviction of California Vehicle Code section
13 23152(a). Respondent further admits that on October 16, 1993,
14 following his reporting to work at Folsom State Prison, a
15 biological fluid test administered to him found the presence of
16 alcohol in his system.

17 WHEREFORE IT IS HEREBY STIPULATED AND AGREED that the
18 Medical Board of California, upon its approval of the Stipulation
19 and Waiver herein set forth, may, without further notice, prepare
20 a decision and enter the following order, whereby Physician and
21 Surgeon Certificate No. C-27859, heretofore issued to respondent
22 by the Medical Board of California, is hereby revoked, PROVIDED
23 HOWEVER, that execution of this order of revocation is stayed,
24 and respondent is placed on probation for a period of seven (7)
25 years, upon the following terms and conditions.

26 (A) COMMUNITY SERVICES-FREE SERVICES

27 Within 60 days of the effective date of this decision,

1 respondent shall submit to the Division for its prior approval a
2 community service program in which respondent shall provide free
3 medical services on a regular basis to a community or charitable
4 facility or agency for at least 240 hours over the first 24
5 months of probation, or 10 hours per month.

6 (B) ALCOHOL-ABSTAIN FROM USE

7 Respondent shall abstain completely from the use of
8 alcoholic beverages.

9 (C) BIOLOGICAL FLUID TESTING

10 Respondent shall immediately submit to biological fluid
11 testing, at respondent's cost, upon the request of the Division
12 or its designee.

13 (D) DIVERSION PROGRAM

14 Within 30 days of the effective date of this decision,
15 respondent shall enroll and participate in the Division's
16 Diversion Program until successful completion of the program.
17 Quitting the program without permission or being expelled for
18 cause shall constitute a violation of probation by respondent.

19 (E) PSYCHIATRIC EVALUATION

20 Within 30 days of the effective date of this decision,
21 and on a periodic basis thereafter as may be required by the
22 Division or its designee, respondent shall undergo a psychiatric
23 evaluation (and psychological testing, if deemed necessary) by a
24 Division-appointed psychiatrist who shall furnish a psychiatric
25 report to the Division or its designee.

26 If respondent is required by the Division or its
27 designee to undergo psychiatric treatment, respondent shall

1 within 30 days of the requirement notice submit to the Division
2 for its prior approval the name and qualifications of a
3 psychiatrist of respondent's choice. Upon approval of the
4 treating psychiatrist, respondent shall undergo and continue
5 psychiatric treatment until further notice from the Division.
6 Respondent shall have the treating psychiatrist submit quarterly
7 status reports to the Division.

8 (F) COSTS

9 Respondent shall pay to the Medical Board a sum not to
10 exceed the reasonable costs of the investigation and prosecution
11 of the case. That sum shall be \$1,000 and shall be paid in four
12 quarterly payments of \$250. The first quarterly payment is due
13 within sixty (60) days of the effective date of the decision,
14 each of the next three payments is due in three month intervals
15 with the last payment due within 11 months of the effective date
16 of the decision.

17 (G) MONITORING

18 Should respondent seek to practice medicine in the
19 State of California in a setting other than as an employee of a
20 public entity, he must have a monitor. Within 30 days of the
21 change of employment, respondent shall submit to the Division for
22 its prior approval a plan of practice in which respondent's
23 practice shall be monitored by another physician in respondent's
24 field of practice, who shall provide periodic reports to the
25 Division.

26 If the monitor resigns or is no longer available,
27 respondent shall, within 15 days, move to have a new monitor

1 appointed, through nomination by respondent and approval by the
2 Division.

3 (H) OBEY ALL LAWS

4 Respondent shall obey all federal, state and local
5 laws, and all rules governing the practice of medicine in
6 California.

7 (I) QUARTERLY REPORTS

8 Respondent shall submit quarterly declarations under
9 penalty of perjury on forms provided by the Division, stating
10 whether there has been compliance with all the conditions of
11 probation.

12 (J) SURVEILLANCE PROGRAM

13 Respondent shall comply with the Division's probation
14 surveillance program.

15 (K) INTERVIEW WITH MEDICAL CONSULTANT

16 Respondent shall appear in person for interviews with
17 the Division's medical consultant upon request at various
18 intervals and with reasonable notice.

19 (L) TOLLING FOR OUT-OF-STATE PRACTICE OR RESIDENCE

20 The period of probation shall not run during the time
21 respondent is residing or practicing outside the jurisdiction of
22 California. If, during probation, respondent moves out of the
23 jurisdiction of California to reside or practice elsewhere,
24 respondent is required to immediately notify the Division in
25 writing of the date of departure, and the date of return, if any.

26 (M) COMPLETION OF PROBATION

27 Upon successful completion of probation, respondent's

1 certificate will be fully restored.


2 (N) VIOLATION OF PROBATION

3 If respondent violates probation in any respect, the
4 Division, after giving respondent notice and the opportunity to
5 be heard, may revoke probation and carry out the disciplinary
6 order that was stayed. If an accusation or petition to revoke
7 probation is filed against respondent during probation, the
8 Division shall have continuing jurisdiction until the matter is
9 final, and the period of probation shall be extended until the
10 matter is final.

11 10. IT IS FURTHER STIPULATED AND AGREED that the terms
12 set forth herein shall be null and void, and in no way binding
13 upon the parties hereto, unless and until accepted by the Medical
14 Board of California of the State of California.

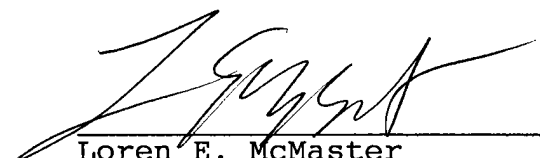
15 DATED: 11/16/94

16 DANIEL E. LUNGREN, Attorney General
17 of the State of California
18 MARA FAUST
19 Deputy Attorney General

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22 Deputy Attorney General

23 Attorneys for Complainant
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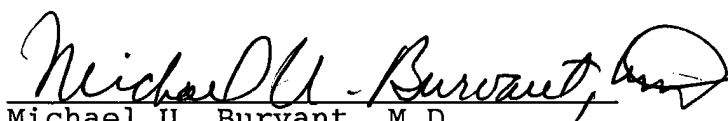
1 DATED: 11/14/94



Loren E. McMaster
Attorney for Respondent

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4 I hereby certify that I have read this Stipulation and
5 Agreement in its entirety, that my attorney of record has fully
6 explained the legal significance and consequence thereof, that I
7 fully understand all of the same and in witness thereof I affix
8 my signature.

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10 DATED: 12 Oct 94



Michael U. Burvant, M.D.
Respondent

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DECISION AND ORDER

The foregoing is adopted as the decision of the Medical Board of California in this matter and shall become effective this 17th day of March, 1995.

IT IS SO ORDERED this 16th day of February, 1995

MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BY Dr. Kukulic

EXHIBIT A

OFFICE COPY
ATTORNEY GENERAL

DANIEL E. LUNGREN, Attorney General
of the State of California
JANA L. TUTON
Supervising Deputy Attorney General
MARA FAUST
Deputy Attorney General
1515 K Street, Suite 511
P. O. Box 944255
Sacramento, California 94244-2550
Telephone: (916) 324-5358

Attorneys for Complainant

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	No. D-5505
Against:)	
)	
MICHAEL U. BURVANT, M.D.)	<u>ACCUSATION</u>
3532 Orinda Circle)	
Cameron Park, CA 95682)	
)	
Physician and Surgeon)	
Certificate No. C27859)	
)	
)	
Respondent.)	

Complainant, DIXON ARNETT, alleges that:

1. He is the Executive Director of the Medical Board of California, State of California (hereinafter referred to as the "Board"), and makes these charges and allegations in his official capacity and not otherwise.

2. On or about December 21, 1965, respondent Michael U. Burvant, M.D. (hereinafter referred to as "respondent") was issued Physician and Surgeon Certificate No. C27859 by the Board.

1 Said certificate was in full force and effect at all times
2 material hereto and is paid and currently with an expiration date
3 of November 30, 1994.

4 STATUTES

5 3. Section 2220 of the Business and Professions Code^{1/}
6 provides that the Division of Medical Quality of the Board
7 (hereinafter "the Division") may take action against all persons
8 guilty of violating the provisions of the Medical Practice Act
9 (Bus. & Prof. Code, § 2000 et seq.).

10 4. Section 2234 provides, in pertinent part, that the
11 Division shall take action against any licensee who is charged
12 with unprofessional conduct. Unprofessional conduct is defined
13 therein to include, but not be limited to: (a) violating or
14 attempting to violate, directly or indirectly, or assisting in or
15 abetting the violation of, or conspiring to violate, any
16 provision of the Medical Practice Act.

17 5. Section 2236(a) provides that the conviction of any
18 offense substantially related to the qualifications, functions,
19 of duties of a physician and surgeon constitutes unprofessional
20 conduct with in the meaning of this chapter. The record of
21 conviction shall be conclusive evidence only of the fact that the
22 conviction occurred.

23 6. Section 2239 provides, in pertinent part, as
24 follows:

25 (a) The use or prescribing for or administering to
26

27 1. All statutory references are to the Business and
Professions Code unless otherwise indicated.

1 himself or herself of . . . alcoholic beverages to the extent,
2 or in such a manner as to be dangerous or injurious to the
3 licensee, or to any other person or to the public, or to the
4 extent that such use impairs the ability of the licensee to
5 practice medicine safely or more than one misdemeanor or any
6 felony involving the use, consumption, or self-administration of
7 any of the substances referred to in this section . . .
8 constitutes unprofessional conduct. The record of conviction is
9 conclusive evidence of such unprofessional conduct.

10 7. Section 2240 states that any licensee who, while in
11 actual attendance of patients, is intoxicated to such an extent
12 as to impair his or her ability to conduct the practice of
13 medicine with safety to the public and his or her patients, is
14 guilty of unprofessional conduct.

15 FIRST CAUSE FOR DISCIPLINARY ACTION

16 8. On or about September 5, 1989, in case number
17 090194 before the El Dorado County Municipal Court, respondent
18 pled no contest to a violation of section 23152(a) of the
19 California Vehicle Code (driving under the influence of an
20 alcoholic beverage and/or drug), a misdemeanor. Respondent was
21 sentenced to two days in jail and ordered to pay a \$1,170.00
22 fine.

23 9. The facts underlying the conviction were that on or
24 about June 16, 1989, respondent was involved in a car accident.
25 At the time of the accident, in which his rear-ended another
26 vehicle, his blood alcohol level was approximately .24 and .25
27 percent.

1 10. Respondent's conduct, as set forth in paragraphs 7
2 through 8 above, constitutes unprofessional conduct under
3 sections 2234(a) and 2236(a) of the Code and is therefore cause
4 for disciplinary action.

5 SECOND CAUSE FOR DISCIPLINARY ACTION

6 11. On or about the morning of October 16, 1992,
7 respondent was working as a doctor at Folsom Prison. At that
8 time, several Folsom Prison employees observed respondent to have
9 a strong odor of alcohol on his breath, blood-shot and glassy
10 eyes, slow speech and an unsteady gait. Respondent was given a
11 urine test which indicated that he had a blood alcohol level of
12 .244 percent. As a result, respondent was relieved of his duties
13 and driven home.

14 12. Respondent's conduct, as set forth in paragraph 10
15 above, constitutes unprofessional conduct under sections 2234(a),
16 2239, and 2240 of the Code and is therefore cause for
17 disciplinary action.

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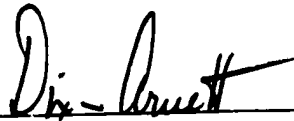
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1 WHEREFORE, complainant prays that the Board hold a
2 hearing on the matters alleged herein and following said hearing
3 issue a decision suspending or revoking the physician and surgeon
4 certificate number C27859 issued to Michael U. Burvant, M.D., and
5 take such other and further action as the Board deems proper.

6 DATED: October 27, 1993.



DIXON ARNETT
Executive Director
Division of Medical Quality
Medical Board of California
Department of Consumer Affairs
State of California

Complainant